

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION

BREYONNA BUSH, et al.,	)	
	)	
Plaintiffs,	)	
	)	
vs.	)	No. 4:20-cv-01098-SEP
	)	
HZ OPS HOLDINGS, INC., d/b/a POPEYES	)	
CHICKEN AND BISCUITS	)	
	)	
Defendant.	)	

**DEFENDANT HZ OPS HOLDINGS, INC.’S MOTIONS TO  
DISMISS AND STRIKE IN PART THE FIRST AMENDED  
CLASS AND COLLECTIVE ACTION COMPLAINT**

Defendant HZ Ops Holdings, Inc. (“HZ Ops”), by and through counsel and pursuant to Federal Rules of Civil Procedure 12(b)(2) and 12(b)(6) moves the Court for an Order dismissing Plaintiffs’ First Amended Complaint for lack of personal jurisdiction and failure to state a claim upon which relief can be granted. Defendant also moves the Court to strike Plaintiffs’ Rule 23 allegations. In support, HZ Ops states as follows:

1. Plaintiffs’ First Amended Complaint alleges HZ Ops violated the Fair Labor Standards Act (“FLSA”) and Missouri Minimum Wage Law (“MMWL”) for minimum wage and overtime violations. The First Amended Complaint lacks sufficient facts from which to plausibly infer any such violation. All claims should therefore be dismissed.

2. Plaintiffs Rule 23 allegations are likewise deficient. But more importantly, the limited factual allegations including the alleged dissimilarities between the Plaintiffs actually establish that a Rule 23 class action cannot be maintained. Plaintiffs Rule 23 allegations should be stricken as a result.

3. The Court should dismiss the portion of the collective action claims under the FLSA to the extent the claims are by individuals not employed by HZ Ops in the State of Missouri because the Court lacks general jurisdiction over HZ Ops and exercising specific jurisdiction over HZ Ops for claims unrelated to the State of Missouri does not comport with due process.

4. HZ Ops fully incorporates by reference is contemporaneously filed Memorandum in Support.

WHEREFORE, for the foregoing reasons, Defendant HZ Ops Holdings, Inc. respectfully requests that the Court dismiss the First Amended Complaint for failure to state a claim upon which relief can be granted, strike the Rule 23 allegations, dismiss for lack of personal jurisdiction any collective action claims by individuals who were not employed by HZ Ops in the State of Missouri, and grant such further relief that the Court deems just and proper.

ARMSTRONG TEASDALE LLP

By: /s/ Kevin W. Prewitt

Robert A. Kaiser #31410MO

Jeremy M. Brenner #63727MO

7700 Forsyth Blvd., Suite 1800

St. Louis, Missouri 63105

Telephone: 314.621.5070

Fax: 314.621.5065

[rkaiser@atllp.com](mailto:rkaiser@atllp.com)

[jbrenner@atllp.com](mailto:jbrenner@atllp.com)

Tyson H. Ketchum #50426MO  
(*pro hac vice*)  
Kevin W. Prewitt #66161MO  
(*pro hac vice*)  
2345 Grand Boulevard, Suite 1500  
Kansas City, Missouri 64108-2617  
816.221.3420  
816.221.0786 (Facsimile)  
[tketchum@atllp.com](mailto:tketchum@atllp.com)  
[kprewitt@atllp.com](mailto:kprewitt@atllp.com)

*ATTORNEYS FOR DEFENDANT HZ OPS  
HOLDINGS, INC*

**CERTIFICATE OF SERVICE**

I certify the foregoing document was served this 27th day of October, 2020 upon all counsel of record via the Court's ECF filing system.

/s/ Kevin W. Prewitt